

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

JOSEPH P. SABO, JR., §
§
Petitioner, §
§
v. § **Civil Action No. 7:18-cv-068-O-BP**
§
WICHITA COUNTY SHERIFF, §
§
Respondent. §

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

This is a habeas action brought pursuant to 28 U.S.C. § 2254 in which Petitioner challenges his conviction for possession of a controlled substance, seeks release on bail, and presents claims that he's been denied medical care at the Wichita County Jail. The United States Magistrate Judge entered his Findings, Conclusions, and Recommendation in which he recommends that Petitioner's challenge to his conviction be dismissed as time-barred, his claim for release on bail be dismissed for failure to exhaust state remedies, and his medical care claims be dismissed without prejudice to his right to bring such claims in a civil rights action. *See* ECF No. 19. Petitioner has not filed objections. The District Court reviewed the Findings, Conclusions, and Recommendation for plain error. Finding no error, I am of the opinion that the findings of fact, conclusions of law, and reasons for denial set forth in the Magistrate Judge's Recommendation are correct and they are hereby adopted and incorporated by reference as the Findings of the Court with the following modifications:

On December 12, 2018, Sabo filed a notice of change of address which reflects that he has been released from the Wichita County Jail. Adjudication by federal courts is limited by Article III of the Constitution to actual, ongoing controversies between litigants. If resolution of a dispute has

been reached because of changed circumstances, including the passage of time, the dispute is rendered moot. *E.g. Honig v. Doe*, 484 U.S. 305, 317-18 (1988); *Fassler v. U.S.*, 858 F.2d 1016, 1018 (5th Cir. 1988); *American Med. Ass'n v. Bowen*, 857 F.2d 267, 270-71 (5th Cir. 1988). Because he is no longer confined in the Wichita County Jail, Petitioner has achieved the relief he seeks in Ground Two of his petition, release from the county jail. His claim for release on bail is therefore moot.

The Court further finds that Sabo's medical care claims involving the Wichita County Jail are currently pending in *Sabo v. Southwest Corr. Medical Group*, No. 7:18-cv-149-O (N.D. Tex.).

For the foregoing reasons, Petitioner's challenge to his conviction is **DISMISSED** with prejudice as **TIME-BARRED**. Petitioner's claim for release on bail is **DISMISSED** with prejudice as **MOOT**. Petitioner's medical care claims are **DISMISSED** without prejudice to his pending civil rights action, *Sabo v. Southwest Corr. Medical Group*, No. 7:18-cv-149-O (N.D. Tex.), in which he has presented his claim that he was denied medical care at the Wichita County Jail.

SO ORDERED this 14th day of February, 2019.



Reed O'Connor
UNITED STATES DISTRICT JUDGE